1 DAVID BURCHARD CHAPTER 13 TRUSTEE PO BOX 8059 FOSTER CITY, CA 94404 3 (650) 345-7801 FAX (650)345-1514 (707) 544-0475 FAX (707) 544-0475 4 5 6 UNITED STATES BANKRUPTCY COURT 7 NORTHERN DISTRICT OF CALIFORNIA 8 SANTA ROSA DIVISION 9 10 Case No.: 11-1-3214AJ13 In re: 11 Chapter 13 12 EX-PARTE APPLICATION FOR ORDER AUTHORIZING THE CHAPTER 13 TRUSTEE TO MAKE ADEQUATE **DEAN GREGORY ASIMOS** 13 PROTECTION PAYMENTS 14 15 16 17 David Burchard, Chapter 13 Trustee in the above referenced matter, makes this Ex-Parte Application for an Order 18 directing the Chapter 13 Trustee to make the adequate protection payments proposed by the debtor(s) plan. In support of this 19 application the trustee represents; 20 (1) That 11 U.S.C. 1326(A) (1) (C) requires the debtor to commence making payments that provide adequate 21 protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to 22 the purchase of such property by the debtor for that portion of the obligation that became due after the order for relief, and 23 reducing the payments to the trustee by such payments. 24 (2) 11 U.S.C. 1326(a) (1) provides that the court may order otherwise. 25 (3) That the debtor(s) do not know whether an allowed claim has been filed and thus the debtor(s) do not know 26 when to begin such adequate protection payments. 27 (4) That the trustee cannot reduce the claim of the creditor by the adequate protection payments when the 28 payments are made directly without an objection to such claim. (5) That administratively the payment of adequate protection payments by the trustee would be in the best interest of the debtor(s) and the creditors.

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WHEREFORE, the Chapter 13 Trustee requests the court enter an order as follows:

Adequate protection payments required by 11 U.S.C. 1326(a)(1)(C) and the proposed plan shall be paid by the trustee not the debtor.

- 2. Adequate protection payments required by 11 U.S.C. 1326(a)(1)(B) and the proposed plan shall be paid by the debtor directly to the lessor, reducing the debtor(s) plan payment by that amount so paid and providing the trustee with evidence of such payment including the amount and date of payment.
- 3. Adequate protection payments pursuant to 11 U.S.C. 1326 (a)(1)(C) and the proposed plan shall be paid when the claim holder has filed a proof of claim. To the extent funds are available the trustee shall pay the claim holder adequate protection payments for those periods from the filing of the petition through the date of confirmation.
- 4. The trustee shall begin making the adequate protection payments in connection with the trustee's customary month end disbursement cycle beginning the month after the petition is filed.
- 5. The trustee may access an administrative fee for making the payments required by this order and shall collect such fee at the time of making the payment from the funds on hand in the case. The allowed fee shall be equal to the percentage fee established by the Attorney general pursuant to 28 U.S.C. 586(e)(1)(B) in effect at the time of the distribution.
- 6. Upon dismissal or conversion prior to confirmation of the plan, the trustee shall first make the payments required by paragraph 1 above, then any unpaid claims allowed pursuant to section 503(b), before returning the balance of the funds held by the trustee to the debtor.
- The trustee shall serve the creditors receiving adequate protection payments with the order on Chapter 13 Adequate Protection Payments.
- 8. On appropriate motion any party may, either ex-parte or on noticed motion, request this order be modified by the court.

Dated:September 16, 2011

Respectfully submitted,

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3	David Burchard
4	Chapter 13 Trustee
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7	CHAPTER 13 TRUSTEE P.O. BOX 8059
	FOSTER CITY, CA 94404
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9	PROOF OF SERVICE BY MAIL
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11	
12	STATE OF CALIFORNIA, COUNTY OF <b>SAN MATEO</b>
13	I am employed in the County of <b>San Mateo,</b> State of California. I am over the age of 18 and not a party to the within action
14	My business address is P.O. Box 8059, Foster City, CA 94404.
15	
16	On September 16, 2011, I served the foregoing documents described as: Ex-parte Application FOR ORDER AUTHORIZING
17	THE CHAPTER 13 TRUSTEE TO MAKE ADEQUATE PROTECTION PAYMENTS
18	
19	I served the above documents on the interested parties by following our ordinary business practice for service, which is eithe deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable.
20	Mercedes-Benz Financial
21	P.O.Box 9001680 Louisville, KY 40290
22	
23	I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.
24	For enterland On Contambra 15, 2011, at Forter City, Collifornia
25	ecuted on September 16, 2011, at Foster City, California.
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28	NICHOLE SAN JOSE
20	NICHOLE SAN JOSE

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